IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.5091 of 2006
Date of Decision: 26.10.2006

Jitender Singh ...Petitioner

Vs.

Smt. Sita Rani ... Respondent

CORAM Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr.Shiv Kumar, Advocate,
for the petitioner.

Vinod K.Sharma, J. (Oral)

Present revision petition has been filed against the orders of ejectment passed by the learned Rent Controller and affirmed by the Appellate Authority.

The respondent-landlord has sought ejectment of the petitioner on the ground of non-payment of rent and personal necessity. The petitioner herein took a stand that the rent was not payable in view of the agreement to sell executed between the parties.

Learned Rent Controller assessed the provisional rent on 7.2.2006 in view of the fact that the agreement to sell did not pass on the title to the petitioner herein and therefore, the relationship of landlord and tenant continued to exist between the parties. However, on the date fixed for payment of provisional rent the petitioner did not pay the same and on

the next date of hearing absented himself and was proceeded ex parte. Thereafter, the landlord-respondent led evidence and learned Rent Controller came to the conclusion that on account of non-payment of rent as well as on the ground of personal necessity the petitioner was liable to be evicted. The finding recorded by the learned Rent controller has been affirmed by the learned Appellate Authority.

Learned counsel for the petitioner placed reliance on the judgment of this Court in Rajinder Lal Vs. Gopal Krishan (2006-2) P.L.R./ 124 to contend that no ejectment can be ordered on the basis of non-payment of provisional rent as it was incumbent upon the learned Rent Controller to give another opportunity to the petitioner at the time of final assessment.

I have gone through the cited judgment and find that the facts and circumstances of the said case do not apply to the present case as in the present case there has been no change in the assessment of rent in the provisional order or at the subsequent stage nor the petitioner could have been given another opportunity to pay the rent as admittedly he chose to be absent from the proceedings. Even otherwise, the ejectment has also been ordered on the ground of personal necessity as the statement of the landlord went unrebutted and therefore, the courts below were right in holding that the premises were required bona fide by the landlord for his own use and occupation.

Accordingly, finding no merit in the present revision petition it is dismissed in limine.

(Vinod K.Sharma)
Judge

26.10.2006
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